

## § 962.6

## 39 CFR Ch. I (7–1–15 Edition)

presentation of such evidence. In general, admissibility will hinge on relevancy and materiality. However, relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

### § 962.6 Notice of hearing.

(a) Within a reasonable time after receiving the Respondent's Hearing Petition and the Complaint, the Presiding Officer shall serve, in accordance with § 962.23, upon the Respondent and the Reviewing Official, a Notice of Hearing containing the information set forth in paragraph (b) of this section.

(b) The Notice of Hearing required by paragraph (a) of this section must include:

- (1) The tentative hearing site, date, and time;
- (2) The legal authority and jurisdiction under which the hearing is to be held;
- (3) The nature of the hearing;
- (4) The matters of fact and law to be decided;
- (5) A description of the procedures governing the conduct of the hearing; and
- (6) Such other information as the Presiding Officer deems appropriate.

### § 962.7 Hearing location.

An oral hearing under this part shall be held

- (a) In the judicial district of the United States in which the Respondent resides or transacts business; or
- (b) In the judicial district of the United States in which the claim or statement upon which the allegation of liability under 31 U.S.C. 3802 was made, presented, or submitted; or
- (c) In such other place as may be agreed upon by the Respondent and the Presiding Officer.

### § 962.8 Rights of parties.

Any party to a hearing under this part shall have the right

- (a) To be accompanied, represented, and advised, by a representative of his own choosing;

(b) To participate in any prehearing or post-hearing conference held by the Presiding Officer;

(c) To agree to stipulations of fact or law, which shall be made part of the record;

(d) To make opening and closing statements at the hearing;

(e) To present oral and documentary evidence relevant to the issues at the hearing;

(f) To submit rebuttal evidence;

(g) To conduct such cross-examination as may be required for a full and true disclosure of the facts; and

(h) To submit written briefs, proposed findings of fact, and proposed conclusions of law.

### § 962.9 Responsibilities and authority of presiding officer.

(a) The Presiding Officer shall conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The Presiding Officer's authority includes, but is not limited to, the following:

- (1) Establishing, upon adequate notice to all parties, the date and time of the hearing, as well as, in accordance with § 962.7, selecting the hearing site;
- (2) Holding conferences, by telephone or in person, to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;
- (3) Continuing or recessing the hearing in whole or in part for a reasonable period of time;
- (4) Administering oaths and affirmations to witnesses;
- (5) Issuing subpoenas, requiring the attendance and testimony of witnesses and the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence which the Presiding Officer considers relevant and material to the hearing;
- (6) Ruling on all offers, motions, requests by the parties, and other procedural matters;
- (7) Issuing any notices, orders, or memoranda to the parties concerning the proceedings;
- (8) Regulating the scope and timing of discovery;